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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

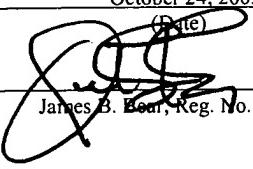
Applicant : Larry Blake
Appl. No. : 09/631,576
Filed : August 4, 2000
For : TWO PART "L"-SHAPED
PHAKIC IOL
Examiner : Javier G. Blanco
Group Art Unit : 3738

CERTIFICATE OF MAILING

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October 24, 2005

(Date)


James B. Bear, Reg. No. 25,221

ON APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES
APPLICANT'S REPLY BRIEF

Mail Stop Appeal Brief – Patents
COMMISIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief relates to an appeal to the Board of Patent Appeals and Interferences of the rejected claims as set forth in an Office Action mailed August 24, 2005 in the above-captioned application.

APPELLANTS' REPLY

In the Examiner's Answer mailed August 24, 2005, the Examiner limited the ground for rejection of claims 40, 51-53, 56-61, 67-69, 74, 75, 77-79 under U.S.C. §103(a) to only one of four grounds listed in the Final Office Action mailed February 22, 2005, namely that these claims are obvious in view of Lecoq (FR 2,770,394). The only new issue raised in the Examiner's Answer that was not addressed in Applicants' Brief mailed on May 26, 2005 is the effect of applicant's statement at page 13, lines 20-21 of the specification, namely: "Fig. 8B is an

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alternative which has the cleats 200 on the lens 200 and the slots, eyelets, apertures or notches 400 on the haptic 110.”

The Examiner asserts that, through this statement, Applicant admits that “slots, eyelets, apertures, or notches are considered obvious equivalents in the art.” The Examiner’s Answer further asserts that “Applicant’s own admission is evidence that slots, eyelets, apertures, or notches are functionally equivalent, compatible, and interchangeable” and that “One of ordinary skill in the art, furthermore, would have expected any of these designs (i.e. slot, eyelet, aperture, or notch) to perform equally well with a cleat as long as the cleat will firmly attach to the corresponding slot, eyelet, aperture, or notch, but will allow for easy removal of the lens.”

Applicants do not list a groove as an alternative embodiment.

However, there is a glaring flaw in the Examiner’s argument. The phrase used at Page 13, lines 20-21 reads “...slots, eyelets, apertures or notches...” However, the Lecoq reference does not show any of these alternatives. Instead, the Examiner admits at Page 3 of the Examiner’s Answer that Lecoq instead shows a *groove*. The Examiner doesn’t even suggest that a groove is the same as a slot, eyelet, aperture or notch. Additionally, there is no contention that a groove has the capability to perform equally well with a cleat (as a slot, eyelet, aperture or notch do) and will allow for easy removal of the lens. This, of course, is because a groove is a trough with a bottom, and thus does not have an opening through which a cleat could pass.

In every embodiment of the present invention, the cleat passes through the opening of the slot, eyelet, aperture or notch to engage the back side of the slot, eyelet, aperture or notch, and thus attach the elements together. A cleat cannot pass through the groove of Lecoq, nor does Lecoq suggest that this is the case. Thus, the groove of Lecoq cannot be “functionally

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equivalent, compatible, and interchangeable" with an eyelet. An eyelet operates in a totally different, non-obvious way than a groove.

A groove is a long, narrow furrow or channel. The grooves disclosed in Lecoq are described as "non-perpendicular edges that are slightly oblique, in such a manner that the space between them has a form of a trapeze" (trapezoid). (See Figure 10.) It is clear that the radial groove in Figure 10 is an indentation or channel in the haptic which in no way perforates or goes through the haptic, and does not permit the cleat to pass through.

An eyelet does not contain a bottom portion and is not a channel. The Blake eyelet is shown below for comparison. Furthermore, all four designs named in the application - slots, eyelets, apertures, and notches – are openings and not channels. Thus, Lecoq does not teach or suggest an "eyelet" in the accepted definition of the term because a channel is not an eyelet (or a slot, aperture or notch).

FIG. 10
COUPE SUIVANT
CD 23

Lecoq RADIAL GROOVE

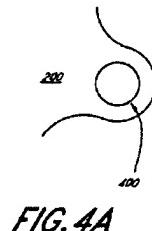


FIG. 4A

Blake EYELET

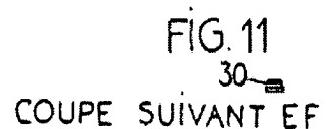
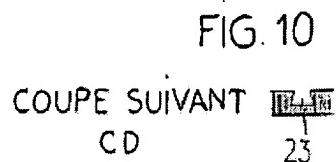
An eyelet and a groove do not perform in the same manner: an anchoring tab is pushed into a groove; an eyelet is stretched over a haptic.

In addition, the tab 24 and radial groove 22 in Lecoq do not perform in the same way that a cleat and eyelet would. A cleat is a projection around which a rope (or the like) can be wound. In the preferred embodiment, the optic 200 is produced of a material with a lower modulus than

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the haptic 110, thus allowing the eyelet to be slightly stretched to pass around the haptic's cleat. Thus, the motion of the originally claimed design is a stretching motion of the eyelet to the cleat.

To the contrary, the radial groove in Figure 10 and the anchoring tab in Figure 11 of Lecoq would require a pinching motion to attach one to the other. The anchoring tab must be pushed down into the radial groove to form the combination shown in Figure 12. Claims 40 and 77-79 call for "at least two eyelets ...allowing each of said cleats to firmly attach to one of said eyelets..."; the motion for attachment requires the eyelet to be passed over the cleat so that the cleat passes through the opening in the eyelet. The pushing motion required to attach an anchoring tab to a channel is completely different from the motion necessary to attach the cleat to the eyelet in the IOL defined in this application.



In conclusion, despite the fact that the application listed slots, apertures, and notches as alternatives to eyelets, the application did not list a radial groove as one of the possible alternatives. Because a radial groove operates differently than any of the listed alternatives, it is not equivalent to an eyelet and does not render the attachment containing the eyelet obvious.

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CONCLUSION

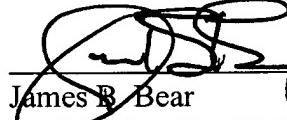
Applicant submits that the claims of this application are allowable and that the rejections should be overruled by the Board of Appeals.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 10/24/05

By:



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APPENDIX A

WHAT IS CLAIMED IS:

1-39. (Cancelled)

40. (Previously presented) An attachment for a two-part IOL comprising:
an optic;
a haptic, wherein the haptic is more rigid than the optic;
at least two cleats on the haptic; and
at least two eyelets on the optic allowing each of said cleats to firmly attach to one of said eyelets on the optic, wherein said two-part IOL is configured to pass completely through a small incision without folding the haptic.

41-50. (Cancelled)

51. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic further comprises at least one more cleat.

52. (Previously presented) The attachment for a two-part IOL of Claim 51, wherein said at least two cleats are asymmetrical.

53. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic further comprises a hinge.

54. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic comprises:

a first rigid element;

a second rigid element formed of a relatively higher modulus material than the first rigid element, wherein said first and second rigid elements are separated from one another at a discontinuity; and

a relatively less rigid element formed of relatively lower modulus material bridging said discontinuity.

55. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said bridging allows for the second element to be rotated into the anterior chamber.

56. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said haptic is composed of a higher modulus material selected from the group consisting of:

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polyimide, polyetheretherketone, polycarbonate, polymethylpentene, polymethylmethyl methacrylate, polypropylene, polyvinylidene fluoride, polysulfone, and polyether sulfone.

57. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said polyimide is KAPTON.

58. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material is polyphenylsulfone (PPSU).

59. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material has a modulus of about 100,000 to about 500,000 psi/inch.

60. (Currently Amended) The attachment for a two-part IOL of Claim 6059, wherein said higher modulus material has a modulus of about 340,000 psi/inch.

61. (Previously presented) The attachment for a two-part IOL of Claim 56, wherein said higher modulus material is less than or equal to about 0.01 inches thick.

62. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is an elastomer selected from the group consisting of: silicones, urethane, or hydrophilic acrylics.

63. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material has a modulus of about 100 to about 1000 psi.

64. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material has a hardness of about 15 to 70 on the shore A scale.

65. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said higher modulus material has a hardness of 60 to 95 shore D.

66. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is selected from the group consisting of: NUSIL MED 6600, 6604, 6607, 6400, and 6820.

67. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein said optic is selected from the group consisting of a refractive lens, an interference lens, a toric lens, a multifocal lens, a positive lens, and a negative lens.

68. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein a lower modulus material partially or completely covers said haptic.

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69. (Currently Amended) The attachment for a two-part IOL of Claim 4053, wherein said hinge comprises a toe region, a foot region, and a lower modulus material extended toward the foot region.

70. (Previously presented) The attachment for a two-part IOL of Claim 54, wherein said lower modulus material is applied by surface treatment and molding.

71. (Previously presented) The attachment for a two-part IOL of Claim 70, wherein said surface treatment is a corona or plasma treatment.

72. (Previously presented) The attachment for a two-part IOL of Claim 70, wherein said molding is selected from the group consisting of dip molding, cast molding, and injection molding.

73. (Cancelled)

74. (Previously presented) The attachment of Claim 40, wherein said two-part IOL is configured to pass completely through a 2.5mm or less opening without folding the haptic.

75. (Previously presented) The attachment for a two-part IOL of Claim 40, wherein the haptic is generally "L" shaped.

76. (Cancelled)

77. (Previously presented) An attachment for a two-part IOL comprising:

an optic;

a haptic, wherein the haptic is more rigid than the optic;

at least two cleats on the optic; and

at least two eyelets on the haptic allowing each of said cleats to firmly attach to one of said eyelets on the haptic, wherein said two-part IOL is configured to pass completely through a small opening without folding the haptic, and wherein said cleats on the optic extend generally in the plane of the optic.

78. (Previously presented) An attachment for an IOL comprising:

an optic;

a haptic;

at least two cleats on the optic; and

at least two eyelets on the haptic allowing each of said cleats to firmly attach to one of said eyelets on the haptic,

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wherein said optic and said haptic are each configured to pass separately, completely through a small incision without folding the haptic, and wherein said cleats on the optic extend generally in the plane of the optic.

79. (Previously presented) An attachment for an IOL comprising:

an optic;

a haptic;

at least two cleats on the haptic; and

at least two eyelets on the optic allowing each of said cleats to firmly attach to one of said eyelets on the optic, wherein said optic and said haptic are each configured to pass separately, completely through a small incision without folding the haptic, and wherein said cleats on the haptic extend generally in the plane of the haptic.

80. (Previously presented) The attachment of Claim 40, wherein the eyelets are attached firmly, but moveably to allow for natural movement of the eye.

81. (Previously presented) The attachment of Claim 40, wherein when the eyelets are attached to the cleats, part of the eyelet passes beneath the plane of the optic.